

# The Gazette of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

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No. 186] NEW DELHI, FRIDAY, JUNE 24, 1955

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MINISTRY OF LABOUR

NOTIFICATIONS

*New Delhi, the 21st June 1955*

**S.R.O. 1359.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes Part II of the following award of the Industrial Tribunal, Bombay, in the industrial disputes between the Bombay Port Trust, the Bombay Dock Labour Board and certain stevedore employers and contractors in the Port of Bombay, on the one hand, and their workmen, on the other.

BEFORE SHRI M. R. MEHER, I.C.S. (Retd.), INDUSTRIAL TRIBUNAL,  
BOMBAY

REFERENCE (IT-CG) No. 4 of 1954  
ADJUDICATION

BETWEEN

The Bombay Port Trust, Bombay and 20 others

AND

Their Workmen.

In the matter of an industrial dispute re: amenities.

APPEARANCES:

Shri H. M. Seervai for the Bombay Port Trust, Bombay.

Shri K. K. Mehta for the Bombay Dock Labour Board, Bombay.

Shri H. J. Marr of Messrs. Crawford Bayley and Co., Solicitors, for the Bombay Stevedores' Association Ltd., representing Messrs. Kanji Jadhavji and Co., Ardeshir B. Cursetjee and Sons Ltd., Darabshaw B. Cursetjee's Sons, R. Sharp and Son Ltd., Dinshaw and Company, Hill, Son and Dinshaw Ltd., M. B. Eduljee Cassinath Sons, Vinsons, New Dholcra Shipping and Trading Co. Ltd., A. R. Naim and Sons, H. K. Joshi and Co., Dinshaw C. Cooper and Sons, Purshotamdas Madhavani and Co. Ltd., R. H. Tookaram Hariba and Sons, Eastern Bunkers Ltd., United India Marine and Trading Co., and S. C. Cambata and Co. Ltd.

Shri B. M. Bhatt for Messrs. Dharsey Mulji and Co., Bombay.

Shri F. E. Merchant for Messrs. Ebrahim Moosa Tadpatriwala, Bombay.

Shri Jasvantlal Matubhai of Messrs. Matubhai Jameitram & Madan, Attorneys for Messrs. Kanji Jadhavji & Co.

Shri C. L. Dudhia instructed by Shri H. N. Trivedi, President, Bombay Stevedores & Dock Labourers' Union, for the Bombay Stevedores & Dock Labourers' Union, Bombay, and for Shri Maruti Jairam & others.

Shri Sushil Kavlekar instructed by Dr. Shanti Patel, General Secretary, Bombay Port Trust Employees' Union, for the Bombay Port Trust Employees' Union, Bombay.

Shri N. V. Phadke, instructed by Shri P. D'Mello, General Secretary, and Shri P. W. Khandekar, Secretary, Transport & Dock Workers' Union, for the Transport and Dock Workers' Union, Bombay.

## AWARD

### PART II.

My Award Part I in the above reference was signed on 30th May 1955 and submitted to the Central Government under section 15 of the Industrial Disputes Act. The issue which has remained to be dealt with is, what essential amenities are lacking at the work-places and should be provided? Under this head the Unions have made various demands. With the consent of all the parties in the reference Shri N. S. Mankiker, Chief Advisor, Factories, was appointed as an Assessor to advise me on this issue. The Port Trust and the Transport and Dock Workers' Union have filed certain objections to this Report.

2. *Drinking water.*—The Assessor has reported that the drinking water facilities in the Docks consist mainly of ordinary taps or stand-pipes or cast iron fountains connected to the public municipal water supply. During his visits he noticed queues for drinking water, and at some places workers were drinking water provided in the latrine blocks. The Assessor has stated that there are 28 taps at 22 points where drinking water is available and that workers have to walk a distance of 50 to 75 yards for drinking water. At two places the single tap or stand-pipe has been replaced by white glazed tile trough with 4 chromium plated taps connected to a mechanical refrigerating unit for supplying cool drinking water. This is called a water centre. He has stated:

"If one drinking water point or centre were to be provided in-between two sheds or berths in a row and also at the extreme ends of the sheds or berths in a row, the whole area where labour is employed will be adequately served and the facilities provided may then be considered as easily accessible to the workers as conditions in the docks permit. Incidentally, it may be mentioned that for covering the area as suggested above a minimum of 35 Water Centres will be required and I would recommend the provision of these. Each water-point or centre may consist of 3 or 4 taps with a white-glazed tile trough beneath as has been provided in two places in the Alexandra Docks between Sheds Nos. 7 and 8 and Nos. 15 and 16. In the initial stages the taps may be connected directly to the public water supply."

He has also suggested the provision of mechanical refrigerating units at each point to supply cool drinking water.

3. The Transport and Dock Workers' Union has stated that the recommendations of the Assessor fall below the standard set by the Factories Act and Rules and that the number of water centres should be 100. On the other hand the Port Trust has submitted that it has at present 28 places where drinking water is available and not 22 as shown in the Assessor's report. The Port Trust is willing to have in all 35 water centres as recommended by the Assessor including those existing at present. As regards requirements of cooled water supply, at present only 3 of the aforesaid places are supplied by water coolers. The Port Trust is willing to supply water coolers at the remaining places if the Government of Bombay sanctions the additional electrical energy required, and the Central Government sanctions the expenditure. It is stated that after the sanction is obtained tenders will have to be invited for the supply of water-coolers and installation thereof as per specifications. The Port Trust has submitted that time of 10 months should be given.

4. I agree with the recommendation of the Assessor and direct that the Port Trust shall within 9 months from the date on which this Award becomes enforceable, provide 35 water centres of the specification given in the Assessor's report with mechanical refrigerating units at each point to supply cool drinking water. This number (35) will include the number of such centres with refrigerating units existing at present. The Assessor has stated:

"Workers usually come with their hands dirty and soiled from handling cargo, and they make profuse use of water for washing their hands before drinking water. In order to minimise the wastage of refrigerated water it would be advisable to provide an ordinary tap on stand-pipe close to each Water Centre for washing hands and efforts should be made with the help of the Unions to educate the workers in the right and proper use of the amenities provided."

I direct that an ordinary tap on stand-pipe near each water centre for washing hands should be provided (if not already existing) by the Port Trust within 9 months from the date on which this Award becomes enforceable.

5. The Assessor has proposed that to provide for a failure of the municipal water supply, arrangements should be made for an overhead storage tank. The Port Trust has stated that there is one overhead storage tank of the 100 gallon capacity at No. 2 Alexandra Dock and 4 underground water storage tanks at this and other Docks. They are sufficient to supply water for 24 hours for all purposes. The failure of the municipal water supply is occasional and repairs are quickly carried out. No useful purpose would be served by additional storage tanks. Except on one occasion when the storage in supply was due to the fault of the workman in charge of the pump who overslept there has been no complaint about failure of water supply. Having considered the submissions of the Port Trust and the Union I do not think it necessary to direct the construction of any more storage tanks than those existing at present.

6. The Assessor has proposed that as regards provision of drinking water for labour employed in loading and unloading cargo at moorings, the only satisfactory arrangement is for the Stevedores to make an arrangement with the ship's authorities for the dockers working on board the ship to have access to the ship's drinking water supply. The Stevedores' Association agrees to this and I give a direction accordingly.

7. *Washing facilities.*—The Assessor has stated that if one tap for washing is provided near each water centre, no separate washing facilities are necessary. The Union has stated that these facilities are not enough. I agree with the Assessor and do not consider any further directions on the point necessary.

8. *Urinals and latrines.*—The Assessor has stated that the sanitary facilities available in the Docks consist of well designed and constructed sanitary blocks fairly well distributed. He found during his visits that latrine seats were in a filthy condition. He has stated that there are 43 urinals, 202 Indian type latrines and 67 commode type latrines in addition to the facilities provided in a separate compartment attached to each of the 9 new type sanitary blocks in the Alexandra Docks reserved and kept locked for officers. He has suggested that the number of urinals falls short of the requirements of the Factories Act and has suggested that the number of urinals falls short of the requirements of the Factories Act and has suggested 100 more urinals and 50 latrines of the Indian type by extension of the existing sanitary blocks. As the standard of maintenance is poor he has suggested that for the larger sanitary blocks a sweeper should always be on duty. In its written statement the Port Trust has stated that the existing facilities are adequate; in its statement of objection to the Assessor's report the Port Trust has stated that the additional latrines and urinals suggested are excessive, that the Assessor has not taken into account 81 European style seats in all the three Docks for the use of workers, of which it is proposed to convert 40 into Indian style seats. It is further stated that the lavatories could be used as urinals, and in view of the shortage of space in the Docks, it would be very difficult to build new urinals. On behalf of the Transport and Dock Workers' Union and the Bombay Port Trust Employees' Union it has been urged that directions should be given in accordance with the Assessor's report.

9. In the statement of demands made by the Transport and Dock Workers' Union in the conciliation proceedings (*vide* Ex. C-1 and Appendix 13 to the Union's statements of claim) there was a demand for various amenities such as dining halls, drinking water, sleeping accommodation, etc. but there was no demand for more latrines and urinals. If there was a necessity no doubt a demand would have been included in the long list of demands. In the statement of claim in this proceeding, by the Union, there is a demand for more latrines only and not urinals. The Bombay Port Trust Employees' Union has asked for adequate urinals and latrines, but that Union represents workmen of the Engineering department, for some of whom there are special arrangements at or near workshops. The Bombay Stevedores and Dock Labourers' Union has made various demands for additional amenities, such as rest rooms, supply of drinking water, canteens, etc., but has made no demand for more latrines or urinals, presumably because such a necessity has not been felt.

10. I am unable to accept the Assessor's report which contains a number of errors. One is that he has assumed the maximum number of workers at any time to be 15,000 in addition to the clerical and supervisory staff. The figures supplied by the Port Trust for two of the days in the month of May in which all berths were occupied, and the largest number of ships were waiting in the stream show that the maximum number of Port Trust and Stevedore workers including clerical and supervisory staff on those days was 8,414. To this might be added workmen engaged by contractors, painting workers, coal workers, etc. The Dock Labour Board has given the number of workmen employed by contractors such as coal workers, chipping and painting workers, food grain workers, etc. The number given is 2,050 for both the shifts, so that the number for one shift may be taken to be about 1,050. This estimate is on the high side because coal workers, foodgrain workers, etc. have not got work every day. The crew of ships at the berths also use the latrines and urinals, and taking an average of big ships and small ships, that number may be 1,500. Thus the number of persons for whom provision has to be made is about 11,000. From this must be deducted about 1,000 comprising supervisory, clerical and engineering staff for whom there are special lavatory blocks. The Assessor has based his recommendation on calculations according to the requirements of the Factories Act. The Factories Act does not apply to the Docks. Both the Chief Engineer and the Senior Assistant Engineer of the Port Trust who were examined by me as witnesses have stated that the requirements as regards proportion of urinals and latrines to the number of men employed in a factory are not applicable to Docks. Besides it has to be considered that in a factory the workman cannot ordinarily leave his machine; so there would be rush on latrines and urinals in the recess hour. On the other hand in the Docks the latrines and urinals are used throughout the day, though naturally there is greater use in the recess hour. The crane men have relievers, tally clerks have relievers; the work of muckadams, fitters, wagon unloaders, carpenters, baroots, and of nawnagans, drivers of forklifts, electricians and tractors, firemen, greasers, etc. is not continuous but intermittent. Loading and unloading work is done by gangs but here again there are intervals between slings. Besides, when work is going on, one man of a gang can easily go to attend a call of nature without the work being held up. When I visited the Docks on 10th December 1954 I saw no rush on latrines or urinals during the recess hour, though on that occasion I visited very few sanitary blocks. On 1st June 1955 I again visited the Docks accompanied by representatives of the parties during the peak hour, viz. recess hour from 12 noon to 1 p.m. I arrived at the first sanitary block at 10 minutes to 12 and visited a large number of blocks in Alexandra, Victoria and Princess Docks till about 1 p.m. and saw no signs of any rush in any of the blocks. At the block between shed No. 5 and 6 Alexandra Dock none of the 4 urinals were occupied. At the block between No. 8 and 9 out of 19 latrines 7 were seen occupied. At the block between shed No. 7 and 8 Alexandra Dock, 3 out of the 4 urinals were not occupied. I have given only some examples. At one place I saw a urinal used as a latrine when adjoining latrines were vacant. This confirms the evidence of Shri DeGama, the Assistant Engineer of the Port Trust, that at times urinals are used as lavatories even though water closets are vacant. Shri DeGama, who, in the course of his duties has to look to the maintenance of sanitary blocks has stated that the use of the W.Cs. is fairly distributed during the whole day but the greater use is during the afternoon recess; that in his 10 years of experience in the Docks he has never seen a queue for lavatory accommodation. The Assessor has stated that he saw queues at most of the water stands but he has not referred to any rush or queues at lavatories. Shri DeGama has stated that experience has shown that more urinals are required in Princess and Victoria Docks and so a survey of sites has been made and plans have been prepared for having 24 urinals in the Princess and Victoria Docks. Some of the existing blocks are proposed to be demolished. After the reconstruction there will be 124 lavatories and 27 urinals in the Princess and Victoria Docks against 199 lavatories and 3 urinals existing at present. The present position is as under:

Alexandra Dock—181 latrines (of which some are reserved for officers) and 51 urinals.

Princess and Victoria Docks—199 latrines (of which some are reserved for officers) and 3 urinals (in addition to 4 urinals which have been demolished and are being rebuilt).

Of the above, the Port Trust proposes to convert 40 European style latrines to Indian style latrines. In addition there are various lavatory blocks in the workshops. For instance the mobile crane workshop has a 3 seated lavatory block, electrical foreman Southern Division has a 3 seated lavatory block, hydraulic engineering office and workshop has 5 seated lavatory block; Deputy Hamallage

Office has 6 seated lavatory block. Traffic offices in Princess and Victoria Docks have on each floor 2 urinals and 2 W.Cs. The Labour Office has a block of 4 lavatories and 2 urinals.

11. The Assessor has not taken into account the special lavatory blocks referred to above. His report is also not correct as regards the number of the general latrines and urinals existing. Even the number given in the statement of objection filed by the Port Trust is not correct. The correct number has been ascertained after Shri DeGama, who came to give evidence with records and plans, was examined as witness. It appears that the Assessor did not contact any officer of the Engineering Department before he made his report and he has left out a number of blocks of lavatories and urinals viz. one near Red Gate, one near C warehouse, one near A and B warehouses, a large block near military goods shed Alexandra Dock, and at Ballard pier station and a large block near K shed. Of the latrines 82 are kept locked and reserved for ship's officers (who are not permitted to use latrines in ships when the vessels are berthed). Deducting this number from the total number of latrines, the number of available latrines is 298 and urinals 54. The commode type latrines are used by workmen as urinals. It is proposed by the Port Trust to convert 40 commode latrines to Indian style latrines.

12. I have stated above that arrangement would have to be made on the basis of 11,000 workers including crew on ships. Of these 1,000 may be deducted as representing clerical, supervisory, and engineering staff for whose use there are special lavatories and urinals, as stated in Shri DeGama's evidence. According to the factory requirements for 10,000 men there should be 192 latrines and 105 urinals. On that basis the latrines exceed the requirements, while the urinals are below requirements, but taking into consideration that latrines can be and are used as urinals the total number exceeds the requirements of the Factories Act. But as stated above the Factories Act does not apply to the Docks, and the circumstances in the Docks are different. It is true that the public also visit the Docks, but those who have to do so for business do not stay there for the whole day; they would not come in the recess hour when the staff would be off duty and when latrines and urinals are most used by the staff.

13. Giving careful consideration to the matter I am of the opinion that the existing facilities with the addition of 6 urinals near the Labour Office, and the provision of some urinals in Princess and Victoria Docks should be adequate. At present there is great disproportion between latrines and urinals in the Princess and Victoria Docks. For instance at shed No. 12 Victoria Dock there are 24 latrines and no urinal. So many latrines are not required near one shed. The existing arrangement has gone on for some years because latrines can be and are used as urinals. It may here be noted that in the premises of the Mazagon Docks Ltd. for 1,805 workmen in the day shift there are 53 latrines and no urinal. This cannot be unless latrines are used as urinals. But latrines require three times the quantity of water for flushing compared with urinals. In my opinion it would be more convenient to workmen to have some urinals in the Princess and Victoria Docks. The learned counsel for the Transport and Dock Workers' Union and the Bombay Port Trust Employees' Union have, while attacking the evidence of the Assistant Engineer, conceded that the Chief Engineer gave his evidence in an impressive and unbiased manner and that he is a person whose evidence can be trusted. The Chief Engineer has stated that no complaints about the inadequacy of latrines or urinals have been received, that from his 36 years' experience he can say that the existing arrangements are adequate, except for urinals required in the Princess and Victoria Docks. As stated above the Port Trust is planning to pull down some old blocks in Princess and Victoria Docks, and it is proposed that after the reconstruction there would be 124 lavatories and 27 urinals in place of 199 lavatories and 3 urinals. This would mean a reduction of the total number by about 50. It is stated that municipal rules now require a larger space and so the total number has to be reduced. The only direction I would give is that at least 24 urinals should be erected in Princess and Victoria Docks, but this should be done without reducing the total number of latrines and urinals taken together. As regards Alexandra Dock the additional 6 urinals planned to be built near the Labour Office call stand will be a great convenience and I propose to give a direction that this work should be taken up and completed in a specified period.

14. My directions are that within a period of nine months from the date on which this Award becomes enforceable the Port Trust shall (1) erect 6 urinals in the Labour Office area, (2) erect not less than 24 urinals in the Princess and Victoria Docks in addition to the 3 already existing. The Port Trust may convert latrines into urinals, but the aggregate total of the latrines and urinals should not be less than the total number of existing latrines and urinals, (3) within 3 months from the date on which this Award becomes enforceable the Port Trust

shall convert 40 commode style latrines into Indian type latrines, (4) the Port Trust shall provide tin pots for water in Indian style latrines, and (5) the attention of the Port Trust is drawn to the report of the Assessor about the poor state of maintenance and cleanliness of the latrines. I direct that the Port Trust shall arrange for a sweeper to be in attendance at each of the larger blocks throughout the day shift including the recess hour, and make adequate arrangements for sweeping and cleaning at the smaller blocks also. The Port Trust shall also arrange to make adequate arrangements for sweeping and cleaning in the second shift and also in the third shift wherever work is going on. Instructions should be given to the sweepers to report any defects to the authorities so that repairs can be promptly carried out.

15. I have reached the above conclusions and given the above directions after anxious consideration. Before coming to the next matter I would, however, deal with one point raised by the Transport and Dock Workers' Union in its objection statement. The point raised is that when the issue with regard to amenities was first heard, Shri Seervai for the Port Trust had stated in Court that the Port Trust would accept the Assessor's report. It is therefore urged that the admission is binding on the Trustees and I should give directions in accordance with the Assessor's report. Now on several occasions Shri Seervai stated that he could not take instructions from the Trustees on every point that arose in the course of the hearing, as the Trustees could only act by a duly convened meeting with sufficient notice. It has however been urged by the Unions that the Trustees having engaged a counsel are bound by his admission. Now on the point about the Assessor's report Shri Seervai had, so far as I recollect, qualified his statement by saying that he would have to consult the Engineering Department and thereafter the statement of objection to the Assessor's report was filed. The Transport and Dock Workers' Union had also stated during the hearing that the report of the Assessor was acceptable but in its statement of objection has attacked the report at several points and asked for more amenities. In an industrial matter is the rule of the liability of the client to be bound by an advocate's oral admission to be strictly applied? In a civil proceeding admissions made by an advocate if made with the express purpose of dispensing with proof at the trial are generally conclusive against the client; otherwise they amount only to *prima facie* evidence of the facts involved; but an admission made under a misapprehension of facts is not binding (38 Bombay Law Reporter p. 1058). When an admission has been made improvidently and by mistake the Court has the authority to relieve against the consequences of such admission. If that is the position in civil law, I do not think that in an industrial matter I am bound to fasten a direction to the Trustees to build 50 additional latrines and 100 urinals without reference to the necessity, the availability of space, etc. though the Assessor's report contains errors, though there was no demand for more latrines or urinals in the conciliation proceeding in the demands filed in that proceeding regarding amenities by the Transport and Dock Workers' Union, though there is no demand for urinals in the statement of claim by this Union, though on inspection I have been satisfied that there is no rush on urinals and latrines in the recess hour on a busy day when all berths are occupied and when there must be the greatest use of latrines or urinals, though there is not an iota of evidence by affidavit or otherwise that workmen are put to inconvenience on account of the shortage of lavatories and urinals and the evidence is to the contrary. I should be sorry if the liability of the Trustees to be found by counsel's oral admission is so strict as to lead to such a startling result, and leave me no alternative but to pass such an order against the Trustees. But that is not the legal position in a civil proceeding, much less in a proceeding under the Industrial Disputes Act.

16. *Canteens*.—The Assessor has proposed 4 canteens at convenient points, accommodating 250 each. He has also proposed that there should be 2 mobile canteens to begin with for serving tea, etc. The Union in its statement of objection to the Assessor's report has asked for canteen provision for 2,000 men and 6 mobile canteens. The Port Trust is agreeable to provide canteens for 1,000 workmen but has stated that there is difficulty in finding space and putting of necessary structures. There are at present three canteens, one at Yellow Gate having accommodation for 200, and two others having a seating capacity of 60 and 20. The Port Trust has a plan for constructing a storeyed structure adjoining the traffic offices at Victoria Docks, to accommodate 250 men. A new structure is proposed to be constructed at the vacant site in Princess Dock near the G shed for a canteen accommodating 250 persons. It is proposed to extend the existing canteen at Yellow Gate which accommodates 200 persons, so as to accommodate 250, by taking over a private hotel there. At present there are 2 private hotels in the structure adjoining White Gate, Alexandra Dock. The Port Trust proposes to demolish the structures and construct a canteen for 170 people. Thus the total

accommodation provided will be 1,000. As regards the existing tenants of the hotels, they have to hand over possession by 31st December under the decree of a Court. The Port Trust has asked for 15 months' time from the date of taking over possession. I direct that within a period of a year from the day on which the Award becomes enforceable the Port Trust shall provide two canteens each to accommodate 250 persons, one near the Traffic Offices at Victoria Dock and the other at the vacant site in Princess Dock near G shed. The canteens may have an upper floor. The Port Trust shall also within a year from the date on which the possession of the adjoining site is obtained extend the existing canteen at Yellow Gate, Alexandra Dock so as to accommodate 250 persons; and construct a canteen near White Gate, Alexandra Dock to accommodate not less than 170 persons within a year of taking possession of the sites referred to above. The structures may have an upper floor. In the event of the Port Trust not being able to secure the sites now in the occupation of hotels the Port Trust shall make alternative arrangements for canteens, so that there would be canteen arrangements for 1,000 persons in all. The Assessor has recommended that provision should be made for mobile canteens to serve tea, etc. at work sites. This would serve a large number of persons in the Docks and save the time of the workers to go for refreshments. He has recommended that the service may be started with 2 mobile canteens. I direct that within a period of 4 months from the date on which this Award becomes enforceable the Port Trust shall provide 2 mobile canteens. It may make its own arrangement or arrange it through the Anna-poorna. If the arrangements prove successful and popular I recommend that the Port Trust should increase the number of mobile canteens. I further direct that the Port Trust shall give canteen facilities for tea and light refreshments (and cooked food if there is sufficient demand for it) in the interval of the second shift. The Port Trust shall also give canteen facilities for tea and light refreshments at the close of the second shift, and during the rest interval of the third shift.

17. *Call Stand*.—The Dock Labour Board is now constructing a separate building which will house a call stand. In view of this no demand was urged during the hearing with regard to a call stand for Stevedore workers.

18. The Transport and Dock Workers' Union has in its statement of claim asked for booking halls for shore workers and casual workers. The Assessor has stated that the total floor area of the existing call stand inside the Docks is inadequate and has recommended that it should be extended. The Assessor has stated that casual labour is booked in the open and proper arrangements should be made. He has also recommended a proper call stand for the hydraulic engineering staff in place of the existing call stand which is 20' by 10'. The Port Trust has stated that there is misapprehension on the part of the Assessor when he says that casual workers are booked in the open and that registered workmen are booked at the call stand. Registered workers are not booked at this call stand but only casual workers. For some time certain categories of casual workers were booked in the open as the work of resurfacing and putting up shelters and boundary walls was and is still being carried out. The Port Trust has produced a plan of the call stand as proposed to be extended and renovated. I direct that the call stand as per this plan shall be completed within 9 months of the date on which this Award becomes enforceable. As regards the call stand for the staff of the hydraulic department, the Port Trust has stated that it is sufficient to accommodate 60 persons. As the total number of staff at this call stand at one time is about 200 the stand will be extended to provide additional space of 18' by 23' which would be sufficient to accommodate 200 persons. The call stand is used for about half an hour in every shift. I direct that the work proposed by the Port Trust shall be completed within 9 months of the date on which this Award becomes enforceable.

19. *First Aid*.—The Port Trust accepts the report of the Assessor. I hope the advice tendered by the Assessor is properly acted upon. No directions in the Award are required. Stevedoring companies should arrange with the ship authorities for making available for workers working on a ship not berthed along the quay, first aid facilities.

20. *Protective equipment*.—I agree with the report of the Assessor. The personal protective equipment which Stevedore labour is provided with while handling dusty cargo should be made available to shore labour. I agree with the Assessor that the demand for work clothes is not justified. It is rejected.

21. *Rest shelters*.—I agree with the report of the Assessor. The Port Trust has agreed to provide in each shed a clear rest space of 40' by 10' marked off by a wooden fencing. I direct that this should be done within 4 months of the date on which the Award becomes enforceable. The shed should be properly ventilated.

22. *Waiting rooms and dormitories.*—The Assessor has stated that for the third shift some place may be necessary for waiting, but the call stand can be used as a waiting room. The Port Trust has stated that the number of workmen in the third shift is about 400. If the piece rate system is sanctioned it is not proposed to run a third shift unless it becomes really necessary. In the event of there being a third shift the call stand can be used as a waiting room. The Port Trust has submitted that waiting at the call stand will not absolve the workmen from reporting to his place of duty and I agree with this. As regards the demand for dormitories for second shift workers on the ground that they sometimes find it difficult to get transport to return home, the Assessor has stated that the obvious thing is to arrange the shifts in such a way that the night shift work breaks off early enough so as to provide the workers time to avail themselves of the local transport. The Port Trust was agreeable to arrange the shifts so that the night shift ends much earlier but the Unions strongly opposed (*vide* paragraph 107 of Part I of the Award). The demand for dormitories has no justification and is rejected.

23. *Bathing facilities.*—The Assessor has stated that in the absence of adequate facilities for bathing, even the drinking water taps and the taps in the lavatories are used for bathing. He has suggested that a modest beginning should be made by putting 12 bath cubicles in Alexandra Docks and 10 each at Victoria and Princess Docks. The Port Trust has stated that two blocks of 8 showers each in the Alexandra Dock and one block in the Victoria Dock have already been sanctioned by the Trustees and will be taken in hand shortly, and that an additional block of showers in the Princess Dock as suggested by the Assessor will be put up. I direct that the Port Trust shall provide 12 bath cubicles in the Alexandra Docks and 10 each at the Victoria and Princess Docks within 9 months from the date on which this Award becomes enforceable.

24. *Lockers.*—With regard to the demand for lockers the Assessor has stated that the need for a place where clothes can be kept safely for workmen engaged in handling dirty cargo is brought out by the pathetic attempt made by manganese ore workers wrapping their clothes in paper bundles and carrying these even while going to the latrine or for drinking water. He has further stated that little effort is made by workers themselves. They could buy a tin bag for Rs. 2. If the workers had done this, perhaps some arrangement could have been made to store these in a convenient place. Another point which might be considered, says the Assessor, is the provision of lockers or pigeon holes on a trailer. The Port Trust has submitted that the suggestion as regards lockers on trailers is not practicable. Provision of lockers gives rise to complications as workmen in Docks have to handle goods. Such provision would cause disputes between workmen and allegations and counter-allegations of planting of goods therein. In my opinion a good case has not been made out for the provision of lockers. The demand is rejected.

25. *Transport for stream workers.*—I agree with the Assessor that the facilities for carrying stream workers are adequate. No direction is necessary.

26. *Chairs and desks for Port Trust tally clerks.*—The Assessor has stated that chairs and desks are available for issue to tally clerks, but they are not availed of as tally clerks, in the course of their duties, have to move from place to place. The Port Trust has stated that this observation of the Assessor is not correct. Stools are made available for tally clerks but they are not availed of as tally clerks prefer to do their work standing. The Port Trust is willing to make stools available to tally clerks. I direct that the Port Trust shall arrange to supply one chair for each tally clerk on duty within 2 months of the date on which this Award becomes enforceable. If it is found that the provision of a desk would add to the convenience or efficiency of the clerk the Port Trust may consider the advisability of supplying a desk.

27. The Transport and Dock Workers' Union has in its statement of claim asked for more hand carts, forklifts, etc. These do not fall within the description of amenities. These demands and demands other than those conceded above are rejected.

(Sd.) M. R. MEHER,  
Industrial Tribunal.

(Sd.) K. R. WAZKAR, Secretary.

Bombay, 13th June 1955.

[No. LR.3(44)/54.]



**S.R.O. 1360.**—In pursuance of section 17 of the Industrial Disputes Act, 1947, (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between Bombay Port Trust, Bombay, and their workmen.

BEFORE SHRI M. R. MEHER, I.C.S. (Retd.), INDUSTRIAL TRIBUNAL,  
BOMBAY

REFERENCE (IT-CG) No. 5 of 1954

ADJUDICATION

BETWEEN

The employers in relation to the Bombay Port Trust, Bombay

AND

Their Workmen

In the matter of an Industrial Dispute *re.* revision of scales of pay, leave terms for non-schedule staff, overtime allowance, etc.

**APPEARANCES:**

Shri H. M. Scervai for the Bombay Port Trust.

Shri N. V. Phadke instructed by Shri P. D'Mello, Secretary, Transport and Dock Workers' Union, Bombay, for the workmen.

**AWARD**

This is a reference by the Central Government under section 10(1)(c) of the Industrial Disputes Act of 1947 for adjudication of the following dispute between the Bombay Port Trust and its outdoor dock staff specified in the Schedule to the Notification:—

*"Outdoor Dock Staff"*

1. Revision of scales of pay of Shed Superintendents (Grades I & II), Gate Inspectors, Gate Cashiers, Assistant Shed Superintendents, Export Cargo Receivers, Labour Supervisors, Manifest Clerks, Clerks (First Grade and Second Grade), Outdoor General Clerks (Tally Clerks), Sorters (First Grade and Second Grade), Markers and Carpenters.
2. Whether the leave terms for non-scheduled staff should not be brought in line with those of the scheduled staff.
3. For overtime work at night, should overtime be calculated on the basis that the normal wage per hour is one-sixth of that of the entire shift?
4. Should the whole or some part of the non-scheduled staff be confirmed and if so, on what terms and conditions?
5. What essential amenities are lacking at the workplaces and should be provided?"

2. On behalf of the workmen a statement of claim has been filed by the Transport and Dock Workers' Union. In the statement of claim it is stated that the Union had submitted its demands to the Port Trust on 12th June 1951, that the Conciliation Officer's efforts to settle the dispute failed due to the unreasonable attitude adopted by the Port Trust and the Government of India deputed the Chief Labour Commissioner and the Secretaries of the Ministries of Labour and Transport to come down to Bombay to bring about a settlement. These officers came to Bombay in June 1954. Their efforts at conciliation failed and the dispute was referred for adjudication. The Port Trust has in its written statement denied the allegation that the efforts at settlement of the dispute failed on the ground of the unreasonable attitude on the part of the Bombay Port Trust. It has admitted that the Chief Labour Commissioner and the Secretaries to the Government of India, Ministry of Transport and Ministry of Labour came down to Bombay in June 1954 but they did so at the request of the shipping companies who took a very serious view of the situation created in the Bombay docks as a result of the intensification of the "go slow" resorted to by dock labour employed in the handling of cargo, and made frantic requests to Government to intervene and remedy the situation.

3. This reference and Reference (IT-CG) No. 4 of 1954 concerning shore workers, crane men, and tally clerks were made by the Central Government on

the same day, namely, 22nd July 1954. The demands of the Union for revision of wage scales, etc. of the outdoor staff were made in June 1951. It appears that the Government of India did not consider it necessary to make a reference. In the Award in Reference (IT-CG) No. 4 of 1954 I have given an account of the circumstances leading to the two references. From the facts set out in paragraph 24 of that Award it is seen that the Secretaries of the Ministry of Labour and Transport came down to Bombay in June 1954 on account of the telegrams from shipping interests complaining of serious delays in shipping on account of go-slow by Dock workers, and not to settle the dispute with regard to grade scales of clerks, gate inspectors, etc. It appears however that as the Transport and Dock Workers' Union had been pressing for an overall settlement of all disputes pertaining to the Docks, the Central Government thought it fit to refer this dispute also on the same day that Reference (IT-CG) No. 4 of 1954 was referred. There are two matters on which References (IT-CG) Nos. 4 and 5 overlap. Tally clerks are included in both the references. There is also another issue which is common to both the references and that is, "What essential amenities are lacking at the workplaces and should be provided?"

4. In the statement of claim reference has been made to a large number of irrelevant matters such as the Port Trust not filling up vacancies that the Port Trust defied the Minimum Wages Act, that a large number of posts had been abolished, etc. Many of these matters have not been even referred to in the hearing and arguments and I shall therefore confine myself only to the demands which were urged at the time of the hearing.

5. I now come to issue No. 1 regarding the revision of wage scales of tally clerks, manifest clerks and other categories of persons about whom there is no dispute that they are workmen within the definition given in the Industrial Disputes Act. The Port Trust has submitted that revision in the grades of all these categories of workmen was made in 1949 after the proposals had been discussed with the Bombay Port Trust Staff Association and a number of modifications suggested by that Association were accepted in their entirety. Before coming to the individual demands in respect of the different categories of workmen, it is necessary to set out the present scales of pay, the dearness allowance and other allowances of the various categories comprised in the reference. They are as under:—

Shed Superintendent, 1st Grade—Rs. 220—10—280.

Shed Superintendent, 2nd Grade—Rs. 155—8—195—10—215.

Gate Inspector—Rs. 220—10—280.

1st Grade Gate Keeper—Rs. 155—8—195—10—215.

Assistant Shed Superintendent—Rs. 120—6—144—8—184.

Export Cargo Receiver—Rs. 120—6—144—8—184.

Labour Supervisor—Rs. 120—6—144—8—184.

Manifest Clerk—Rs. 90—6—144—8—160.

1st Grade Clerk—Rs. 90—6—144—8—160.

2nd Grade Clerk—Rs. 55—5—90—E.B.—6—144 for new appointments from 27th September 1949: Rs. 55—5—85—E.B.—5—130.

Tally Clerk—Rs. 55—3—85.

Sorter, 1st Grade—Rs. 55—3—85.

Sorter, 2nd Grade—Rs. 40—1—50—2—60.

Marker, Docks—Rs. 31—1—35.

Marker, Warehouses—Rs. 35—1—40.

Carpenter, Hamallage/Workshop—Rs. 55—3—85—4—93—E.B.—4—125—5—130.

Assistant Carpenter—Rs. 35—1—50—E.B.—2—60.

The allowances admissible are as follows:—

	Dearness Allowance	House Allowance	Compensatory Allowance
	Rs.	Rs.	Rs.
Pay upto Rs. 34	.. 40	10	5
From Rs. 35 to 50	.. 40	10	7/8
From Rs. 51 to 54	.. 50	10	7/8
From Rs. 55 to 60	.. 50	15	7/8
From Rs. 61 to 80	.. 50	15	10
From Rs. 81 to 100	.. 50	15	12/8
From Rs. 101 to 140	.. 55	20	12/8
From Rs. 141 to 150	.. 55	20	15
From Rs. 151 to 200	.. 60	20	15
From Rs. 201 to 250	.. 65	20	17/8

NOTE.—Employees who are engaged on and after 1st February 1950 are not entitled to Compensatory Allowance when their pay exceeds Rs. 100/- per month.

6. The Transport and Dock Workers' Union has contended that the scale of pay applicable to tally clerks, namely, Rs. 55—3—85, is unduly low and in particular the maximum requires to be increased. The uniform annual increment of Rs. 3 is very low; the annual increment should be Rs. 5 to 7 and the maximum should be at least Rs. 150. It is stated that though tally clerks are kept essentially for tally work they do all sorts of work including work in the office. The present scale for tally clerks was framed by the Port Trust having regard to the extraneous circumstances that they were receiving considerable overtime allowance. Since the application of the Minimum Wages Act to the employees of the Port Trust the possibilities of overtime earnings have been eliminated. If as a result of Reference (IT-CG) No. 4 of 1954 which relates to shore workers the piece rate scheme comes into force, the number of tally clerks will have to be increased very considerably and the number of vacancies in the higher posts to which tally clerks might ordinarily be promoted is not likely to increase proportionately.

7. On behalf of the Port Trust it is pointed out that tally clerks have large avenues of promotion. They are the recruiting ground for promotion upto the posts of shed superintendent, gate inspector and chief inspector. Ex. E-1 shows the low educational qualifications of the gate inspectors, shed superintendents, senior clerks, etc., all of whom started as tally clerks. Ex. E-4 shows that the promotion of tally clerks to second grade clerks is fairly rapid. The same is true of promotion to higher posts as shown by Ex. E-6, Ex. E-7 and Ex. E-8. The increment of Rs. 3 is not low as can be seen from two of the scales recommended by the Central Pay Commission at page 42, paragraph 66 for Class III Government servants. They are as follows:—

Rs. 55—3—85—E.B.—4—125—5—130.

Rs. 75—3—105.

It is further urged that the fact that at times tally clerks do the work of second grade clerks is no reason for equating their pay to that of second grade clerks, but may, if at all, give rise to a claim for officiating allowance.

8. The duties of a tally clerk are to copy in the tally sheets a list of packages discharged and shipped. He mentions in the sheet whether the package is a bale, case, crate, etc. If a package is in a damaged condition the fact has to be mentioned in the tally sheet. A tally clerk is posted to a hook. When miscellaneous cargo is discharged, additional tally clerks are posted as reliefs to assist the tally clerk. When the volume of import traffic work falls and tally clerks are surplus to requirements they are posted on miscellaneous work such as assisting telephone clerks and other similar work (*vide* paragraph 41 of the Port Trust's written statement). When the piece rate system comes into force they will have to note weights of packages also. It has been further stated on behalf of the Port Trust that nobody recruited as tally clerk has remained in that grade, and every one has got promotion to higher grades, except six persons who had been retrenched from the grain shops and were taken up as tally clerks.

9. The duties of tally clerks are simple, and there is no comparison between their duties and the duties of office clerks. In the Report of the Central Pay Commission it is stated at paragraph 18 on page 180:—

“The scales that we have proposed for the Class III Services are calculated to meet the grievance of the clerical services as far as possible. The first scale we have suggested in paragraph 66 of Part II *supra*, viz., Rs. 55—3—85—E.B.—4—125—5—130 will be the scale for the generality of clerks. Where clerks are not required to be even matriculates, e.g., tally clerks, appropriate scale for class IV may be adopted.”

The highest grade recommended by the Pay Commission for Class IV servants is Rs. 40—1—50—2—60 (*vide* paragraph 67, page 43 of the Report). To give a higher scale than Rs. 55—3—85 would mean that tally clerks would draw more in the first ten years than assistant correspondence clerks, and also skilled workers, like fitters, boiler makers, etc. In the report of the Central Pay Commission it is stated at paragraph 66, “In the modern world there is no justification for regarding the skilled workman as belonging to an inferior category when compared with a clerk”. Tally clerks have, in the past been non-matrics though matriculates, who are offering themselves for employment, are now taken. In my opinion the grade of tally clerks calls for no revision except that the scale should be extended so as to secure a higher maximum. I direct that with effect from the date on which this Award becomes enforceable the grade should be Rs. 55—3—85—E.B.—4—105.

10. It has been urged that the Port Trust has wrongly designated tally clerks as non-scheduled having regard to the provision of section 21 of the Bombay Port Trust Act. This is not a matter within the scope of this reference, but Shri Seervai on behalf of the Port Trust, admitted during the hearing that as tally clerks do clerical and not manual work they cannot be treated as non-scheduled employees having regard to the provisions of section 21 of the Port Trust Act, and that it was proposed that hereafter they would be treated as scheduled employees.

11. *Second grade clerks.*—The Union has represented that the scale of pay in respect of new clerks appointed after 27th September 1949 has been reduced and the maximum brought down from Rs. 144 to Rs. 130 and compensation allowance for clerks whose pay exceeds Rs. 100 has been abolished. The second grade clerks had worked as tally clerks for years before they were put on the present scale. B scale office clerks are on the scale of Rs. 60—5—110—E.B.—5—180. In service the second grade clerks are senior to B scale clerks. On behalf of the Port Trust it was stated that before the revision that took place in 1949, clerks now called first grade clerks, second grade clerks and manifest clerks were all on the scale of Rs. 55—5—90—E.B.—6—144. It was found that some clerks in this composite grade were doing more important work and others were doing less important work. For those doing more important work a very much higher scale was proposed by the Union, namely, Rs. 90—6—144—8—160 and this was accepted. For those doing less important work the scale was lowered to Rs. 55—3—85—E.B.—5—130 but the new scale was for future recruits only and not applied to the then existing employees. The Unions had proposed the scale of Rs. 55—5—85—E.B.—5—140 for second grade clerks. This shows that even the Unions recognised the necessity of lowering the then existing scale. The Chairman's note for rejecting the demand for a maximum of Rs. 140 is at Appendix H to the Port Trust's written statement. In it it is stated *inter alia*:—

“The scale proposed, namely, Rs. 55—5—85—E.B.—5—130, is already more liberal than the scale of Rs. 55—3—85—E.B.—4—125—5—130 recommended by the Central Pay Commission and adopted by the Central Government for their matriculate clerks in their various offices in Bombay.

The minimum educational qualification prescribed for this category is only VII standard English as against the matriculation with total marks of over 50 per cent. prescribed for office clerical staff; the lowest scale prescribed for the latter is Rs. 60—5—100—E.B.—5—150.”

12. From the facts stated above it is not correct to say that the pay scales were reduced. What was done was to introduce a necessary classification in an existing group, and pay scales for clerks doing a higher quality of work were substantially raised, and for those doing a lower quality of work, the scales were lowered as regards the final increments and as regards the maximum. The scale now demanded for the second grade clerk and first grade clerk is the scale given to office clerks of scale B and scale A respectively. It is pointed out by the Port

Trust that the work done by office clerks is of an administrative character requiring higher concentration than the work of outdoor clerks 1 and 2, and the educational qualifications of office clerks are much higher. For the office clerks only those who have passed the Secondary School Certificate Examination and who have obtained over 50 per cent. of the total marks are considered for the appointment by the Staff Selection Committee. In practice almost all those who have been recruited have secured 60 per cent. marks and some are Honours graduates. The A scale office clerks are selected by the Staff Selection Committee from among Honours graduates. On the other hand appointments to the post of outdoor second grade clerks are by promotion from tally clerks who have been recruited by the Docks Manager from among applicants who have studied up to VII standard, which is equal to the former pre-matric standard. In my opinion the scales for the outdoor second grade clerks are adequate having regard to their duties and the educational qualifications required. The demand for revising their scales is rejected. As regards first grade clerks Shri Phadke's argument proceeded on the basis that if the grade of the second grade clerk is revised the grade for the first grade clerk should also be revised. There is no case for revising the grade of first grade outdoor clerks whose scale of Rs. 90—6—144—8—160 is quite adequate. The demand is rejected.

13. *Export cargo receivers, gate cashiers, designated also as first grade gate-keepers, manifest clerks and assistant shed superintendents.*—The Union has represented that if the grades of the first and second grade clerks is revised the grades of manifest clerks, export cargo receivers and assistant shed superintendents need revision. I have considered the nature of the duties of all these categories and am of the opinion that their scales are adequate and need no revision. The demand is rejected.

14. With regard to shed superintendents, gate inspectors and labour supervisors, the Port Trust has contended that they are not workmen. The Union has, without giving up its contention that they are workmen, stated that this Tribunal need not give any directions on the grades of these persons; that if the Tribunal revises identical grades of persons who are admitted to be workmen, it is expected that the Trustees will voluntarily increase their scales also. In view of the submissions of the Union I do not think it necessary to go into the point whether these persons are workers or not and whether their grades should be revised. In view, however, of the fact that I have not considered it necessary to revise the wage scales of the categories of workmen who draw the same salary as labour supervisors, gate inspector and shed superintendents, there is no question of expecting the Trustees voluntarily to revise the grades of shed superintendents, gate inspectors and labour supervisors whose grade scales are adequate.

15. *Carpenters.*—The demand for revision of the grade of carpenters is not pressed and is rejected. As regards assistant carpenters the demand is that the grade should be Rs. 55—3—85. The duties of an assistant carpenter are merely to beat down the loose planking of packages damaged during the course of discharge or otherwise, to open up packages for appraisement by Customs which operations do not require any specialised ability. The Port Trust has submitted that their work is light unskilled work. When I visited the Docks on 10th February 1955 I saw the work of assistant carpenters which was as described above. The demand of the Union amounts to asking the Tribunal to give these workmen the same grade as that of tally clerks and skilled workmen. To give assistant carpenters whose duties are described above the same grade for the first 10 years as carpenters, blacksmiths, 30 ton hydraulic crane drivers, cable jointers, would be highly anomalous, and would unnecessarily disturb the differentials. The demand is rejected.

16. *Markers.*—There are two grades of markers—Rs. 35—1—40 and Rs. 30—1—35. The Union has represented that the scales are too low and that there should be only one scale of Rs. 40—1—50—2—60 which is the scale of markers of the Railway Department. The duty of markers is to stencil the names of the ship from which packages are discharged. A ready made stencil is supplied and all that the marker has to do is to hold the stencil against the package and apply a dab of paint. This calls for no intelligence or skill. On the other hand railway markers have to mark distinctly the contents of wagons according to different consignees. Also when transfers are effected from one wagon to another they have to mark this operation on the packages. Therefore the scale for markers in the sheds cannot be the same as that for railway markers. However in my opinion there is a case for raising the lower grade which is on the low side. Having regard to the nature of the duties it would be appropriate if there is one grade of Rs. 35—1—40 and I direct that this grade shall come into force from the date on which this award becomes enforceable. Markers drawing less than Rs. 35 will draw that pay from that date, and markers in the lower grade who have completed two years' service should be given one increment in the new grade.

17. *Sorters.*—There are two grades of sorters—Rs. 55—3—85 and Rs. 40—1—50—2—60. The Union demands that there should be only one grade of Rs. 55—3—85. There were formerly 39 scheduled sorters on Rs. 50—3—80 and non-scheduled sorters on the grade of Rs. 40—1—50. Under the Trustees' Resolution No. 755 of 1949 it was decided to transfer the then existing posts of scheduled sorters, as and when such posts fell vacant by reason of retrenchment, etc. to the non-scheduled establishment to be redesignated as first grade sorters on the scale of Rs. 55—3—85. This was done in conformity with the provisions of section 21 of the Bombay Port Trust Act according to which employees doing manual work are non-scheduled employees. Although the cadre of sorters was transferred to the non-scheduled establishment, the scales of both grades were raised upwards. The duties of a sorter are to direct the labourers handling packages in transit sheds and warehouses to place them where similarly marked packages have been previously placed. The qualification required is passing the V standard examination. It is evident that their work is not comparable to that of tally clerks and it would be anomalous if all sorters are put on the grade of Rs. 55—3—85, which is the grade of tally clerks and also the grade of skilled workers of the engineering department for the first 10 years. There is some force in the contention of the Union that having regard to the fact that the sorters of both grades do the same kind of work there should be only one grade, but if the work is very simple, it would be an argument for abolishing the higher grade and there is no such demand. In my opinion the best course would be to revise the lower grade to Rs. 50—3—80. I direct that this should be done from the date on which this Award becomes enforceable. Sorters getting less than Rs. 50 will draw that pay from the date this award becomes enforceable. Sorters drawing more shall draw the same pay in the new grade or be stepped up to the nearest pay in the grade with effect from that date.

18. *Issue No. 2.*—"Whether the leave terms for non-scheduled staff should not be brought in line with those of the scheduled staff." The Union has stated that the division of the staff into scheduled and non-scheduled has no rational basis. The permanent staff has been unjustly designated as non-scheduled. The Union has demanded that the outdoor staff should be given 30 days' privilege leave, 30 days' sick leave and 20 days' casual leave. Section 21 of the Bombay Port Trust Act which lays down the distinction between the scheduled and non-scheduled staff is as follows:—

"21. *Schedule of staff and of pay and allowances to be prepared and sanctioned by Board.*—The Board shall from time to time prepare and sanction a schedule of the staff of employees whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Board sanctions for each such employee:

Provided always that—

- (a) artisans, porters and labourers and mukadams of porters and labourers and any persons employed in any capacity in any waiting or refreshment room constructed by the Board under the authority contained in section 68(7A), and
- (b) persons in temporary employment other than those who are in receipt of a monthly salary exceeding one hundred and fifty rupees shall not be deemed to be within the meaning of this section or of section 23."

Tally clerks, sorters, markers, carpenters, assistant carpenters, are classed as non-scheduled staff. Second and first grade clerks, manifest clerks, and gate cashiers, are classed as scheduled. Shed superintendents, gate inspectors and labour supervisors are also scheduled. Non-scheduled posts have been divided into two classes: (a) employees the maximum of whose pay exceeds Rs. 100 per month and also carpenters the maximum of whose grade pay exceeds Rs. 100 per month and (b) employees holding posts the maximum pay of which is Rs. 100 per month or less. For the scheduled posts casual leave is 20 days in a year; for the non-scheduled 10 days in a year after completion of a year's service. For scheduled posts and non-scheduled (a) posts, privilege leave is 1/11th of the time spent on duty subject to a maximum accumulation of 120 days. Other non-scheduled (b) posts earned leave after the completion of a year's service is as follows:—

During first 10 years of service—1/22nd of duty subject to a maximum accumulation of 60 days.

Next 10 years—1/11th of duty subject to a maximum accumulation of 90 days.

Thereafter—1/11th of duty subject to a maximum of 120 days.

The case of the Port Trust is that the terms for non-scheduled employees are generous and are the same as in the case of the same categories of employees on the railways and under Government. Giving careful consideration to the matter I am of the opinion that no changes are required in the leave rules for the workmen concerned in the reference. The demand is rejected.

19. *Issue No. 3.*—"For overtime work at night, should overtime be calculated on the basis that the normal wage per hour is one-sixth of that of the entire shift?" The Union has submitted that night shift hours are six. The night pay should be based on duty hours for night work. The Port Trust has replied as follows: The Port Trust Rule relating to overtime allowance is as follows:—

"Overtime will be paid for at  $1\frac{1}{2}$  times the normal rate of pay in respect of the hours worked in excess of 48 hours per week to such of the employees as are entitled to overtime allowance at present.

NOTE.—The normal rate per hour shall be taken to be  $\frac{1}{8}$ th of  $\frac{1}{30}$ th of the basic monthly pay."

Though under this rule an employee becomes eligible to earn overtime if he has put in work in excess of 8 hours, the employees concerned in this reference are paid overtime allowance for work in excess of 36 hours per week, i.e. over 6 hours at night. The employees are receiving 8 hours' pay for 6 hours' work in the night shift. They are enjoying the benefits of shorter hours of work because their working hours have to coincide with the shifts of mazdoors engaged in loading and unloading cargo. The employees are thus enjoying a concession to which they are not entitled. Further as 50 per cent. of the dearness allowance has been merged in the pay workmen are receiving overtime allowance at the rate of  $1\frac{1}{2}$  times the basic wage plus 50 per cent. dearness allowance merged in the pay, whereas before the merger of dearness allowance with pay, employees used to be paid overtime at  $1\frac{1}{2}$  times the basic wage only. With regard to the demand that overtime should be at double the normal wage, the Port Trust has contended that this demand is outside the scope of the reference and the demand has not been pressed during the hearing. For the night shift for the workers of the engineering department the hours of work have been fixed at 7 by my Award in Reference (IT-CG) No. 3 of 1954. If working hours of the categories of workmen comprised in this reference for the night shift were 7, there would be a case for paying for overtime on the basis of one-seventh. But in the circumstances stated above I do not think there is a case for altering the existing system by which overtime is allowed. The demand is rejected.

20. *Issue No. 4.*—"Should the whole or some part of the non-scheduled staff be confirmed and if so, on what terms and conditions?" The Union has demanded that as the non-scheduled staff are permanent employees of the Port Trust their terms and conditions of service as regards leave, gratuity, Provident Fund, uniforms, holidays, overtime, etc. should be the same as that of the scheduled staff. The Port Trust has contended that employees who are classified as non-scheduled are not treated as temporary employees except during the first year of service. Thereafter they are confirmed in their respective posts. Section 21 of the Bombay Port Trust Act itself provides for classification of employees into scheduled and non-scheduled employees and it is not competent to the Union to raise an industrial dispute concerning the provisions of the Act which requires employees to be classified as scheduled and non-scheduled. Except in matters of leave the non-scheduled employees enjoy practically the same privileges as the scheduled employees.

21. As stated above, the issue is whether the whole or some part of the non-scheduled staff should be confirmed and if so, on what terms and conditions and not whether the non-scheduled staff should be treated as scheduled staff. The demand of the Union is not within the scope of the reference, and is therefore rejected.

22. *Issue No. 5.*—"What essential amenities are lacking at the workplaces and should be provided?" This issue is common with issue No. 9 in Reference (IT-CG) No. 4 of 1954 in which I have granted various demands on behalf of the workers. The facilities given by that Award for drinking water, canteens, etc. will be available also to the workmen concerned in this reference. During the hearing the Union has pressed for certain facilities specially required for the workmen concerned in this reference and I shall deal with them. One of the demands is that for the clerical staff working in the Central Documentation Office who number about 102, there should be a tiffin and rest room with wash basin and drinking water facilities. On behalf of the Port Trust it was stated that no room could be spared in the building. The Port Trust however agreed to the suggestion of the Tribunal to construct a shed in the compound of the building not less than 16' by 12' to be used as lunch room, fitted with a wash basin and arrangement

for supply of cool drinking water. I direct that within 10 months from the date on which this Award becomes enforceable the Port Trust shall construct this shed either independently of the main building or as extension to it in which there should be a room not less than 16' by 12', fitted with a wash basin, for use as tiffin and rest room by the staff of the Central Documentation Office. Arrangement should be made for supply of cool drinking water in this room. There is a similar demand for the clerks in the Labour Office. The Port Trust has agreed to partition off a space to be used as rest room and tiffin room, fitted with a water basin and to arrange for supply of cool drinking water. I direct that this should be done within 4 months of the date on which this Award becomes enforceable. As regards the Hammalage Office there is a room on the first floor used as lunch room and one room for peons to take their meals. It was stated on behalf of the Union that the lunch room is not available for use by all clerks. I direct that this room or any other suitable room should be available for use by members of the staff comprised in this reference doing duty in the Hamallage Office and that arrangement should be made to supply cool drinking water. There is a sanitary block in the building, near the tiffin room and no provision for installing a wash basin is necessary. As regards the Central Documentation Office in Princess and Victoria Docks, there is a similar demand. The Port Trust has stated that there is a room 17' by 13'-6" which is meant as a tiffin and rest room for the staff and has a bench and desks to seat 20. Similarly in the wing in which the office of the Princess and Victoria Docks is located there is a room 18' by 10'-8" which is provided with benches and desks to seat 15 persons and this room is set apart as tiffin and rest room. Between the two wings there is a room provided with two wash basins, urinals and W.Cs. The existing facility is therefore adequate and no directions are necessary except with regard to supply of cool drinking water. The Port Trust has agreed that cool water will be provided for the staff of these offices and I direct that this should be done.

23. Then there is a demand for one or two wash basins in the sheds at the Alexandra and Princess and Victoria Docks for the staff comprised in this reference working in the sheds. Now in Reference (IT-CG) No. 4 I have made provision for tap water near water centres, and this will be available for use of clerical staff also, but there is rush for v . . . zdoors. Besides in the monsoon, one would get wet in . . . as for a wash. Having regard to all the circumstances . . . of at least one wash basin in each shed as an essential . . . comprised in this reference working in the sheds. The Chief Engineer of the Port Trust has stated that it is feasible to instal wash basins inside the shed but each case would have to be considered on its own merits, according to the drainage available nearby and water mains. On behalf of the Port Trust it was stated that the provision of wash basins would involve risk of damage to cargo for if the tap is carelessly not closed, water would overflow and damage the cargo. If that is the danger the wash basin could be of the type where the knob has to be pressed to bring out water. I direct that the Port Trust shall arrange to install at least one wash basin in each shed within 6 months of the date on which this Award becomes enforceable.

24. Next I come to the demand for chairs and desks. In Reference (IT-CG) No. 4 I have made provision for supply of chairs to tally clerks. The demand in the statement of claim is that delivery clerks at sheds and clerks employed for checking near the gates should be given chairs and tables. At present there are benches and desks in some sheds, but it was stated that clerks have to move about. The number of delivery varies according to the work. I direct that not less than four chairs should be provided in each of the sheds for the use of delivery clerks and a chair should be provided at each gate for the gate clerk. This direction shall be complied with within 2 months of the date on which this Award becomes enforceable. The demand for uniforms for the staff was not pressed during the hearing. This and other demands in the statement of claim which were also not pressed during the hearing are rejected.

(Sd.) M. R. MEHER,  
Industrial Tribunal.

(Sd.) K. R. WAZKAR, Secretary.

Bombay, the 13th June 1955.

[No. LR.3(44)/54-I.]  
P. S. EASWARAN, Under Secy.